

DRAFT

WEST WIMMERA SHIRE COUNCIL

PROPOSED COMMUNITY LOCAL LAW NO 9

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
1.	2	2	Objectives.	Retained.	Additions made to reflect the proposed local law.	
2.	3	3	Authorising provision.	Not applicable.	Refers to the LGA 2020.	
3.	6	5	Definitions.	Largely retained.	Additional definitions included – eg: delegate, e-waste, event, official warning, nuisance, barbecue, receptacle and road related area.	
4.	7(1)(a), 8 and 9	N/A	Droving livestock <u>through</u> the municipal district.	Permit required.	None.	The current provision refers to droving livestock <u>through</u> (as opposed to within) the municipal district. The existing provision is no longer required.

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
5.	10	7.1	Storage of vehicles.	Refers only to keeping or storage of more than one “ <i>old and second hand vehicles and machinery in a township</i> ”.	Updated.	Now applies only if the vehicles or machinery are kept at a residential property in a township and are visible from a public place.
6.	11	8	Keeping excess animals.	Refers only to townships and land of 0.4ha or less and land greater than 0.4ha.	Additional animal references included (eg: donkeys, mules) and the categories of property types changed from two to three.	See Table 1 of the proposed local law.
7.	12	N/A	Temporary dwellings.	Requires a permit if the temporary dwelling is to be constructed on land greater than 80 hectares.	Provision deleted as covered by the <i>Building Act</i> 1993.	
8.	13	9	Camping on land in townships.	Refers only to camping in townships.	Now refers to camping on all private land.	The approval to camp is limited to 28 days in any 12 month period.

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
9.	N/A	10.1	Behaviour on Council land	No provision.	New provision included.	The proposed provision includes, but is not limited to: <ul style="list-style-type: none"> • parking on Council land; • sale of goods on Council land; • operating amusement activities; and • lighting of fires.
10.	N/A	10.2.1	Damaging Council land and assets.	No provision.	New provision included.	
11.	N/A	10.2.2	Bulk rubbish containers and storage containers.	No provision.	New provision included.	Permit required if the container is to be on a road or public land.
12.	N/A	10.2.3	Clothing bins.	No provision.	New provision included.	Permit required if the bin is to be on a road or public land.
13.	N/A	10.2.4	Processions.	No provision.	New provision included.	Permit required if the activity is on Council land or in a public place. Intended to protect the Council and permit conditions would include insurance requirements.
14.	N/A	10.2.5	Using footpaths for activities.	No provision.	New provision included.	Refers to outdoor dining, goods for sale and street furniture.
15.	N/A	10.2.6	Trading, collection and subscriptions.	No provision.	New provision included.	Refers to collections from the footpath or house to house.

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
16.	15	11.2.2	Standards required for keeping animals.	Retained.	Additional provisions included for clarification as to the requirements.	
17.	17	11.4	Droving of livestock within the municipal district.	No permit required.	Provisions updated.	<ul style="list-style-type: none"> • No permit required for droving or grazing on Council roads. • Permit required for droving or grazing on non-Council roads. • Compliance required with Council's Livestock Droving & Grazing Guidelines.
18.	14(1)(d)	11.5	Roadside grazing by livestock for fire hazard reduction.	No permit required.	Permit required and the reference to "fire hazard reduction" removed.	
19.	22	14	Dilapidated, dangerous and unsightly premises.		Alternative wording proposed.	

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
20.	N/A	15	Real estate boards and community advertising signs.	No provision.	New provision included.	Permit not required but the sign must not create a nuisance.
21.	N/A	16	Overhanging vegetation.	No provision.	New provision included.	<p>The proposed provision is common to many municipalities and is intended to prohibit tree branches overhanging the footpath below 2.5 metres.</p> <p>The provision gives greater protection to pedestrians, people with vision impairment and may reduce the potential for insurance claims against the Council.</p>
22.	N/A	17	Bees and wasps.	No provision.	New provision included.	<p>Introduces requirements in relation to:</p> <ul style="list-style-type: none"> • the Apiary Code of Practice; • removal of honeybee swarms; and • prevention of nuisances.
23.	N/A	18	Recreational vehicles.	No provision.	New provision included.	Intended to prevent nuisances.

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
24.	N/A	19.1	Noise – burglar alarms.	No provision.	New provision included.	Provides that; <ul style="list-style-type: none"> • an authorised officer can require a faulty to alarm to be fixed; and • alarms must have an automatic switch off mechanism.
25.	N/A	19.2	Noise – amplified sound equipment.	No provision.	New provision included.	Intended to prevent a nuisance being created.
26.	23	20	Noxious weeds.	Limited provision.	New provision included.	
27.	N/A	22.2.1	Parking etc of heavy and long vehicles.	No provision	New provision included.	
28.	N/A	23	Scareguns.	No provision.	New provision included which “mirror” the EPA Guidelines.	Provides for: <ul style="list-style-type: none"> • approved uses; • distance from residential premises; • hours of use; • regulatory of blasts; and • noise levels.

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
29.	N/A	24	Use of receptacles	No provision.	Provisions proposed relating to the use of receptacles (defined) such as Council supplied mobile garbage bins etc.	
30.	N/A	24.2	Recyclable waste, hard waste and food and organics waste.	No provision.	Foreshadows that Council may introduce such services.	
31.	N/A	25	Nature Strips – Alternative Treatment	No provision.	Provides that a person may obtain permit for an alternative treatment.	Permit conditions would be included (eg: insurance, type of planting, artificial turf etc).

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
32.	25(3)	26.1	Advertising of permit applications.	<p>The Council may require an applicant to give public notice of the application.</p> <p>Currently, there is no provision for an authorised officer to require advertising.</p>	Provision included for an authorised officer to require advertising.	.
33.	25(3)	26.1		<p>The current local law provides that advertising is required pursuant to the section 223 of the <i>Local Government Act 1989</i> (LGA 1989) which provides for submissions to be lodged within 28 days of the advertising and hearing of submissions by Council etc.</p>	<p>The proposed local law provides for public notice to be given on the Council website and, where practicable, in a newspaper.</p> <p>Where the public notice has been given by Council, submissions are to be heard in accordance with the Council's Community Engagement Policy.</p>	

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
34.				While that section still exists, it no longer applies to the making of local laws.		
	25(4)(l)	N/A	Indemnity of the Council.	<p>The previous local law provides that the Council may require an indemnity from the permit holder.</p> <p>In this context:</p> <ul style="list-style-type: none"> • in recent years no indemnities have been sought; • it highly likely any individual or entity would provide an indemnity; and; • the proposed local law provides for public risk insurance. 	Not recommended.	

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
35.	8(2)(c), 17(d) and 18(b)	Various	Insurance.		Refers, where required, for the permit holder to have public risk insurance to an amount determined by the authorised officer.	REQUIRES DISCUSSION
36.	30	26.4	Permit cancellation.	Enables the Council to cancel a permit.	Expanded to allow an authorised officer to cancel a permit.	
37.	30(2)	26.4	Permit cancellation appeals.	<p>Provides that the permit holder:</p> <ul style="list-style-type: none"> • may appeal against the cancellation decision; and • may make a submission on the proposed cancellation. <p>The current local law does not provide any mechanism for the appeal submission process.</p>	Appeal procedures included.	

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
38.	27(1) & (3)	26.6	Appeal rights	<p>The current local law provides that when a permit application is refused:</p> <ul style="list-style-type: none"> the applicant has 21 days to appeal the decision; and the Chief Executive Officer has one month to make a decision on the appeal. 	The proposed local law reduces the time periods to 14 days in both cases.	

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
39.	32	27.8	Fees.	Provides that that the Council may waive, reduce or alter a fee with or without conditions. The current local law does not provide for an authorised officer or delegated officer to reduce etc a fee.	Proposed to exempt charities from fees. Enables an authorised officer to waive, reduce or alter a fee with or without conditions.	
40.	33(1)	N/A	Permit Register.	Requires a register of permits issued to be maintained.	No provision for a Register.	<ul style="list-style-type: none"> • No Register has been maintained. • The existing local law does not say over what period the details are to be kept.
41.	33(3)	N/A	Permit Register.	The Register must be available for public inspection	Not required.	<ul style="list-style-type: none"> • The “public inspection provision” may raise privacy issues. • Any person seeking relevant information may make a freedom of information request.

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
42.	Various	Various	Penalties	<p>In the previous local law, penalties ranged from 2 to 20 penalty units.</p>	<p>Proposed penalties range from 2 to 20 penalty units.</p> <p>In some cases, the penalty for first and second offences are prescribed.</p> <p>The level of penalties proposed is based on:</p> <ul style="list-style-type: none"> the seriousness of the offence; the impact of the offence on the community; and the cost to the Council of reinstatement works. 	<p>Penalty units are established pursuant to the <i>Sentencing Act</i> 1991.</p> <p>Under section 79(1) of the <i>Local Government Act 2020</i>, the maximum local law penalty is 20 penalty units.</p> <p>In 2022/23, a penalty unit is \$184.92. Penalty units are indexed annually on 1 July.</p>

DRAFT

Item No	Clause No		Topic	Current Provision	Proposed Provision	Comments
	Current Local Law	Proposed Local Law				
43.	Various	Various	Penalties		<p>Schedule 2 of the proposed local law:</p> <ul style="list-style-type: none"> • includes explanatory notes; and • shows the proposed penalty when an infringement is issued. 	